

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

CONDRA SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No 1:20-CV-00474
	)	
UNITED STATES DEPARTMENT OF	)	
EDUCATION, et al,	)	
	)	
Defendant.	)	

**DEFENDANT UNITED STATES DEPARTMENT OF  
EDUCATION'S MOTION FOR EXTENSION OF TIME TO RESPOND  
TO PLAINTIFF'S MOTION FOR REMAND**

The United States on behalf of defendant, United States Department of Education ("Education"), moves for an extension of time to respond to the Plaintiff's motion for remand, and states:

1. On November 12, 2020, Plaintiff filed her Complaint and Demand for Jury Trial in the Allen Superior Court against the Department, and the other named defendants in the caption.<sup>1</sup>

2. Plaintiff's Complaint alleges claims for fraud and conversion related to the garnishment of Plaintiff's wages following Plaintiff's default on

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1. Plaintiff's Complaint asserts substantially-identical allegations to those raised in a previous lawsuit brought by Plaintiff in the Northern District of Indiana, *Smith v. United States Department of Education, et al*, Cause No. 1:18-CV-348-HAB-SLC (the "Prior Lawsuit").

The Prior Lawsuit was fully litigated before the Hon. Judge Holly A. Brady, with final judgment entered against Plaintiff and in favor of the Department, PCR, GRC, and USA Funds. Plaintiff appealed the judgment in the Prior Lawsuit to the Seventh Circuit Court of Appeals, which dismissed the appeal. [See *Smith v. United States Department of Education, et al.*, No. 20-1069 (7th Cir. 2020).] Plaintiff then petitioned for review to the Supreme Court of the United States, which was denied.

her student loans. (Dkt. #3). Among other things, Plaintiff alleges that the underlying loan was obtained fraudulently and is not her loan obligation.

3. On December 17, 2020, the United States, filed its Notice of Removal, pursuant to 28 U.S.C. § 1442(a)(1), to remove Plaintiff's most recent Complaint from the Allen Superior Court to the Northern District of Indiana. (Dkt. #1).

4. On December 29, 2020, Plaintiff filed her Motion for Remand and Memorandum in Support of Motion to Remand. (Dkt. #7).

5. Education, and other named defendants oppose Plaintiff's Motion for Remand and intend to file a response in opposition to her request for remand. (Dkt. # 10).

6. Education, and other named defendants intend to move for dismissal of Plaintiff's Complaint, which fails because Plaintiff's claims were fully litigated on the merits in the Prior Lawsuit, among other reasons. (Dkt. # 10).

7. Education, and other named defendants on January 5, 2021, filed a request for an initial pretrial conference with the Hon. Magistrate Judge Susan L. Collins, at the Court's earliest convenience (in advance of the Rule 16 Conference), to discuss the progression of this litigation and a potential joint briefing schedule to govern forthcoming filings in this matter. (Dkt. #10). Education, and other named defendants believe that an early initial conference

to discuss these issues would benefit the Court and the parties and help streamline this case moving forward. (Dkt. #10).

8. The Court granted an initial pre-trial for January 12, 2021.

9. Plaintiff's motion to remand is without merit in that the United States removed this matter under 28 U.S.C. § 1442(a)(1), requiring no consent from other defendants and the motion does not comply with the local rules.

10. The United States believes that judicial economy will be served by waiting to after the initial pre-trial in this matter to file a response to Plaintiff's motion to remand and requests an extension of time for 15 days after the initial pre-trial conference in this matter.

WHEREFORE, the United States requests and extension of time of at least 15 days following an initial pre-trial conference in this matter set for January 12, 2021, and for all other relief the Court deems appropriate.

Respectfully submitted,

GARY T. BELL  
ACTING UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of January, 2021, the **DEFENDANT**  
**UNITED STATES DEPARTMENT OF EDUCATION'S MOTION FOR**  
**EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S MOTION FOR**  
**REMAND** was electronically filed with the Clerk of the Court using the  
CM/ECF system and a copy of the foregoing was served by United States Mail,  
postage prepaid to the following:

Condra L. Smith  
3301 Lafayette St.  
Fort Wayne, IN 46806

Pro-Se Plaintiff

s/ Teresa M. Dillner  
Teresa M. Dillner  
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